



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:

Dominguez Mystery Spill

Latitude: 33.785010, Longitude: -118.2372450
Wilmington, Los Angeles Co., CA.

Alameda Corridor Transportation Authority
Port of Long Beach
Port of Los Angeles

Proceeding Under Section 311(c)
of the Federal Water Pollution Control Act,
33 U.S.C. § 1321(c)

)
) U.S. EPA Docket
)
)
)
)
) No. OPA CWA 311-09-2011-0001
)
)
) ORDER FOR REMOVAL,
) MITIGATION OR PREVENTION OF A
) SUBSTANTIAL THREAT OF
) OIL DISCHARGE
)
)
)

I. AUTHORITY

1. This Order for Removal, Mitigation or Prevention of a Substantial Threat of Oil Discharge, EPA Docket No. OPA 311-09-2011-0001 (the "Order"), is issued pursuant to the authority vested in the President of the United States by Section 311(c) of the Clean Water Act, 33 U.S.C. § 1321(c), as amended ("CWA"). This authority has been delegated to the Administrator of the United States Environmental Protection Agency ("EPA") by Executive Order No. 12777, 58 Federal Register 54757 (October 22, 1991), and further delegated to the Regional Administrator by EPA Delegation No. 2-89 and to EPA Region 9 On-Scene Coordinators by Regional Order R9 1250.30 (September 30, 1997).

2. EPA issues this Order to the Alameda Corridor Transportation Authority ("ACTA"), Port

of Los Angeles ("PLA") and Port of Long Beach ("PLB"), referred to herein as the "Respondents." This Order provides for the performance of removal actions in connection with the discharge of oil into the Dominguez Channel and the City of Los Angeles storm water management system, approximately 3000 meters north of the intersection of East Anaheim Street and North Henry Ford Avenue, Wilmington, Los Angeles County, California (the "Site"). This Order requires Respondents to immediately conduct response actions to remove, mitigate or prevent a substantial threat from the discharge of oil or hazardous substances into or on navigable waters or adjoining shorelines.

II. PARTIES BOUND

3. This Order applies to and is binding on Respondents, and Respondents' directors, officers, employees, agents, receivers, trustees, successors, parent company, subsidiaries and assigns. Any change in ownership or corporate status of Respondents, including, but not limited to, any transfer of assets or real or personal property shall in no way alter Respondents' responsibilities under this Order.

III. DEFINITIONS

4. Unless expressly stated otherwise, terms used in this Order shall have such meaning as may be defined in Section 311(a) of the CWA, 33 U.S.C. § 1321(a).

5. "Order" shall mean this Order for Removal, Mitigation or Prevention of a Substantial Threat of Oil Discharge, EPA Docket No. OPA 311-09-2011-0001, and any documents incorporated herein pursuant to paragraph 16 of this Order.

6. "Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or federal holiday.

IV. FINDINGS OF FACT AND VIOLATIONS

7. Respondents are public agencies. The PLA is an agency within the City of Los Angeles. The PLB is an agency within the City of Long Beach. The ACTA is a joint powers authority formed by the PLB, the PLA and the respective cities. The Respondents own, operate, and/or maintain the property

from which oil discharged into the City of Los Angeles storm water management system

8. On December 21, 2010, the National Response Center ("NRC") received an incident notification (NRC Report #962833) of a large sheen coming from the Dominguez Channel near Wilmington, California. Dominguez Channel is a stream in southern Los Angeles County that empties into the East Basin of the Port of Los Angeles and the Pacific Ocean. It was observed that the oil entered the channel from the outfall of a City of Los Angeles storm water pump station. Oil entered the storm water management system from an outfall of the ACTA railroad right-of-way storm water drainage system. Oil was also observed migrating from the ACTA railroad right-of-way onto the Shell Lubricants facility, approximately 0.45 miles up gradient to the north. Oil from this expression migrated with storm water into the Shell Lubricants facility storm water retention basin. The flow of oil from the apparent source area is intermittent and related to rain events that cause flow in the storm water systems. The Dominguez Channel is within the definition of navigable waters of the United States and adjoining shorelines for the purpose of the Section 311 of the Clean Water Act, 33 U.S.C. § 1321. The presence of oil from the discharge is a substantial threat of the continued release of oil into or on navigable waters or adjoining shorelines to navigable waters.

9. The work to be performed pursuant to this Order is in accordance with the National Contingency Plan, 40 C.F.R. Part 300, and any appropriate Regional or Area Contingency Plan, and is necessary to ensure the effective and immediate removal, mitigation, or prevention of a substantial threat from a discharge of oil or hazardous substance.

V. ON SCENE COORDINATOR and PROJECT COORDINATOR

10. Martin Powell, an employee of EPA Region 9, shall be the primary On Scene Coordinator ("OSC") and shall have the authorities, duties, and responsibilities vested in the OSC by the National Contingency Plan, 40 C.F.R. Part 300. The OSC's authority includes, but is not limited to, the authority to halt, modify, conduct, or direct any tasks required by this Order. Within one (1) day of the Effective

Date of this Order, Respondents shall designate a Project Coordinator who shall be responsible for overseeing Respondents' implementation of this Order. Respondents' notice of designation shall include an address and telephone number for Respondents' Project Coordinator. To the maximum extent possible, all oral communications between Respondents and EPA concerning the activities performed pursuant to this Order shall be directed through the OSC and Respondents' Project Coordinator.

VI. WORK TO BE PERFORMED

11. Respondents shall follow the terms set forth in this Order and perform the work as required in this Order.

12. Respondents shall ensure that oil from the rail road right-of-way drainage system and surrounding property does not enter into navigable waters, tributaries or adjacent shorelines. Respondents shall take all necessary steps to remove the Site discharge or threat of discharge of oil into such waters or adjacent shorelines from the, including the removal of soils contaminated with petroleum hydrocarbons.

13. In accordance with paragraph 14 of this Order, Respondents shall propose necessary corrective action measures to complete the removal action for the Site to ensure that there is no longer a substantial threat of a discharge of oil into the environment. Respondents shall perform the actions as approved by EPA in accordance with the process for approval stated in paragraph 16 of this Order.

14. Within three (3) days after the Effective Date of this Order, Respondents shall submit to EPA for approval a Work Plan to perform the work required by this Order. The Work Plan shall provide a concise description of the activities to be conducted to comply with the requirements of this paragraph, including those addressed below. The Work Plan shall include:

- a. The study, design and implementation of immediate measures to halt the discharge of oil into the environment.
- b. The study, design and implementation of measures to clean up and remove all oil and petroleum contamination at the Site, and all impacted areas.

- c. The proper identification and disposal of waste generated during the response to this incident. Determine the quantity of petroleum in each waste stream. Quantification methods must be approved by the California Department of Fish and Game, and consistent with their methodology for oil spill quantification.
- d. A sampling plan that includes all sampling and analysis to be performed pursuant to this paragraph.
- e. Quality assurance/quality control, data validation, and chain of custody procedures regarding all sampling and analyses performed pursuant to this Order.
- f. Schedules for implementing and completing all tasks described within the Work Plan.

15. Respondents shall send the Work Plan and all notices required by this Order to:

Martin Powell, OSC
Environmental Protection Agency
2445 N. Palm Drive, Ste. 100
Signal Hill, CA 90755
(562) 733-0316
powell.martin@epa.gov

16. The Work Plan shall be reviewed by EPA, which may approve, disapprove, require revisions, or modify the Work Plan. EPA may consult with other interested agencies when considering the Work Plan, including federal, state and local agencies. If EPA requires revisions, Respondents shall submit a revised draft Work Plan within two (2) days after receipt of EPA's notification of the required revisions. Once approved, the Work Plan shall be deemed to be incorporated into and made a fully enforceable part of this Order. Within one (1) day after EPA approves of the Work Plan or any portion of the Work Plan or other work specified by this Order, Respondents shall begin implementation of the approved work.

17. Respondents shall perform the work necessary to complete the task(s) in this Order in accordance with the National Contingency Plan, 40 C.F.R. Part 300, and shall comply with the schedules specified in this Order and in the Work Plan submitted pursuant to Paragraph 14.

18. Respondents shall notify EPA of any field work being conducted in accordance with this Order at least one (1) day prior to work being performed.

19. Respondents shall notify EPA of any proposed response actions that are not described in this Order at least three (3) days prior to undertaking such actions.

VII. RESERVATION OF RIGHTS AND PENALTIES

20. This Order shall not preclude EPA from taking any action authorized by the CWA or any other applicable law. EPA reserves the right to direct all activities, and to comment on and direct off-facility shipping and disposal and all other matters related to the response action directed by this Order.

Furthermore, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order or from taking any other legal or equitable action as it deems appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to the CWA or other applicable law.

21. Violation of any term of this Order or oral direction from EPA may subject Respondents to an administrative civil penalty of up to \$37,500 per day of violation or an amount up to three times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure under Section 311(b)(7)(B) of the CWA, 33 U.S.C. § 1321(b)(7)(B).

VIII. REPORTING REQUIREMENTS

22. Respondents shall submit weekly progress reports to EPA until all actions required by this Order are complete, unless otherwise directed in writing by EPA. These reports shall describe all significant developments during the preceding period, including work performed and any problems encountered, analytical data received during the reporting period, treatment and disposal information and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems. The OSC may require more frequent reports when the activities at the Site warrant a higher reporting frequency.

23. Within thirty (30) days after completion of the actions required under this Order, the Respondents shall submit for EPA review and approval a final report summarizing these actions. The final report shall conform, at a minimum, with the requirements stated in 40 C.F.R. § 300.165 ("OSC Reports"). The final report shall include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed off-site or handled on-site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report also shall include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. *I am aware that under section 309(c)(4) of the CWA, 33 U.S.C. § 1319(c)(4), there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

24. The Respondents shall provide EPA representatives access to the Site. The Respondents also shall provide EPA representatives access to all records and documentation related to the release or threat of release at the Site or to Respondents' implementation of this Order. Nothing in this Order limits or otherwise affects EPA's right of access and entry pursuant to applicable law, including the CWA, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., and the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.

25. Where work under this Order is to be performed in areas owned by or in possession of someone other than the Respondents, Respondents shall use their best efforts to obtain all necessary access agreements. Best efforts, as used in this paragraph, shall include the payment of reasonable

compensation in consideration of granting access. The Respondents shall immediately notify EPA if they are unable to obtain such agreements. EPA may then assist the Respondents in gaining access using such means as EPA deems appropriate. EPA reserves the right to seek reimbursement from the Respondents for all costs and attorney's fees incurred by the United States in obtaining access for the Respondents.

IX. REIMBURSEMENT OF OVERSIGHT COSTS

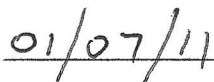
26. Respondents may be liable to reimburse the United States, on written demand, for all response costs paid by the United States and incurred in response to the release of oil described in this Order, unless otherwise exempted from this requirement by federal law. The United States may submit to Respondents on a periodic basis a bill for all response costs so incurred by the United States. The Respondents also may be liable to reimburse local and state agencies for respective costs incurred during the response to the release of oil described in this Order.

X. EFFECTIVE DATE

27. The Effective Date of this Order shall be the date of the receipt of this Order by the Respondents.



Martin Powell
On-Scene Coordinator
U. S. Environmental Protection Agency
Region IX



Date